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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,579	03/21/2005	Lutz Telljohann	P70214US0	8668

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EXAMINER	
EVANISKO, LESLIE J	

ART UNIT	PAPER NUMBER
2854	

NOTIFICATION DATE	DELIVERY MODE
07/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IP@JHIP.COM

Office Action Summary	Application No.	Applicant(s)	
	10/528,579	TELLJOHANN, LUTZ	
	Examiner	Art Unit	
	Leslie J. Evanisko	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-13,18-27 and 29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-13,18-27 and 29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09/22/06 & 03/21/05* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 10-13, 18-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietzell et al. (US 4,627,346) in view of Smith (US 5,209,160).

With respect to claims 10, 12 and 13, Dietzell et al. teach a flexographic printing machine (Fig. 1) comprising: an ink reservoir 1 containing ink having a mixture ratio of color pigments and a volatile solvent; an ink transfer roller 3 that transfer the ink for application to a print substrate 8 from the ink reservoir; and a mechanism (i.e., heaters) for effecting evaporation of the solvent from the at least one ink transfer roller 3, the intensity of the ink applied to the print substrate being adjustable by controlling the solvent evaporation. Particular attention is invited to column 1, lines 41-45, column 3, lines 11-35, and Figure 1 of Dietzell et al. Dietzell et al. fail to specifically teach the mechanism for effecting evaporation of the solvent is a blower that flows a gas onto the ink transfer roller. However, the use of a blowing mechanism positioned adjacent ink rollers to blow air and effect evaporation of fluids in an ink unit is well known in the art as exemplified by the blower 70 of Smith shown in Figures 1 and 4 in particular. In view of this teaching, it would have been obvious to one of ordinary skill in the art to use an

evaporating mechanism such as the blower of Smith positioned adjacent the ink roller of Dietzell et al. as it would simply require the obvious substitution of one known fluid evaporation mechanism for another to provide a less complicated structure that can be better controlled to evaporate the solvent in the printing machine of Dietzell et al.

With respect to claims 11, 22, and 25, note that Dietzell et al. teaches the relationship of increased evaporation results in increased color intensity while decreased evaporation results in decreased color intensity.

With respect to claims 18-19, 23, and 29, Dietzell et al. in view of Smith teach a flexographic printing machine and method as recited with the exception of having a plurality of ink reservoirs and/or mechanisms for effecting solvent evaporation. It has been held that mere duplication of parts is not sufficient to patentably distinguish an invention over the prior art. See MPEP § 2144.04(VI)(B). Thus, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Dietzell et al. in view of Smith to include a second ink reservoir and/or second mechanism for effecting solvent evaporation, because a person having ordinary skill in the art would recognize that a second ink reservoir would provide the opportunity to better control and adjust the amount of ink pigment on the ink transfer roller.

With respect to claims 20 and 26, note Dietzell et al. teach the mechanism for effecting solvent evaporation is controllable in, for example, column 3, lines 7-10.

With respect to claim 21, Dietzell et al. teach a flexographic printing machine (Fig. 1) comprising: an ink reservoir 1 containing ink having a mixture ratio of color pigments and a solvent in a first mixture; an ink transfer roller 3 that transfer the ink for

application to a print substrate 8 from the ink reservoir; and a mechanism (i.e., heaters) for effecting evaporation of the solvent from the at least one ink transfer roller 3 so as to provide a second ink mixture having less solvent than the first ink mixture, the intensity of the ink applied to the print substrate being adjustable by controlling the solvent evaporation. Dietzell et al. fail to specifically teach the mechanism for effecting evaporation of the solvent is a blower that flows a gas onto the ink transfer roller. However, the use of a blowing mechanism positioned adjacent ink rollers to blow air and effect evaporation of fluids in an ink unit is well known in the art as exemplified by the blower 70 of Smith shown in Figures 1 and 4 in particular. In view of this teaching, it would have been obvious to one of ordinary skill in the art to use an evaporating mechanism such as the blower of Smith positioned adjacent the ink roller of Dietzell et al. as it would simply require the obvious substitution of one known evaporation mechanism for another to provide a less complicated structure that can be better controlled to evaporate the solvent in the printing machine of Dietzell et al.

With respect to claims 24 and 27, Dietzell et al. teach a method of adjusting ink intensity on a print substrate of a flexographic printing machine (Fig. 1) including the steps of: supplying ink for flexographic printing from an ink reservoir 1 to an ink transfer roller 3 that transfers ink for application to a print substrate 8, the reservoir ink having a mixture ratio of color pigments and solvent, and effecting evaporation (via heaters) of the solvent from the ink on the ink transfer roller so as to adjust the ink mixture ratio and adjust the intensity of the ink applied to the print substrate. Dietzell et al. fail to specifically teach the evaporation of the solvent is effected by flowing a gas onto the ink transfer roller. However, the use of a blowing mechanism positioned

adjacent ink rollers to blow air and effect evaporation of fluids in an ink unit is well known in the art as exemplified by the blower 70 of Smith shown in Figures 1 and 4 in particular. In view of this teaching, it would have been obvious to one of ordinary skill in the art to effect evaporation of the solvent using a blower as taught by Smith positioned adjacent the ink roller of Dietzell et al. as it would simply require the obvious substitution of one known evaporation mechanism for another to provide a less complicated structure that can be better controlled to evaporate the solvent in the printing machine of Dietzell et al.

Response to Arguments

3. Applicant's arguments filed April 9, 2008 have been fully considered but they are not persuasive of any error in the above rejection(s).

In particular, applicant argues that Dietzell and Smith are directed to different technical areas (i.e., flexographic vs. lithographic) and thus a person of ordinary skill in the art would not combine the teachings of Dietzell and Smith.

In response to applicant's argument that Dietzell and Smith are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, although Dietzell and Smith are directed to different types of printing, both references are concerned with evaporation of printing fluids to better control print image quality and therefore are considered to be analogous. Furthermore,

in the rejection, the Examiner relies upon Dietzell to teach a flexographic printing arrangement as recited including a mechanism for effecting evaporation of solvent from a transfer roller with the exception of the mechanism effecting evaporation by flowing a gas onto the ink transfer roller. The Examiner then relies upon Smith to show the use of a blower to flow a gas onto a roller to effect evaporation of a printing fluid in a printing arrangement is well known in the art. It is the Examiner's position that it would have been obvious to one of ordinary skill in the art to provide a blower evaporating mechanism as taught by Smith in the apparatus of Dietzell as it would simply require the obvious substitution of one known fluid evaporating mechanism for another to provide a less complicated structure that can be better controlled to evaporate the solvent in the printing machine of Dietzell et al.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Again, the Examiner points out that different types of fluid evaporating mechanisms are well known in the art as exemplified by the teachings of Dietzell et al. and Smith.

In view of the above reasoning, the Examiner is not persuaded of any error in the above rejections.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/*Leslie J. Evanisko*/
Leslie J. Evanisko
Primary Examiner
Art Unit 2854

lje
July 6, 2008